

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

FILED  
IN OPEN COURT

NOV - 7 2007

CLERK, U.S. DISTRICT COURT  
ALEXANDRIA, VIRGINIA

UNITED STATES OF AMERICA

v.

ROBERT UPDEGROVE,

Defendant.

CRIMINAL NO. 1:07CR434-TSE

**STATEMENT OF FACTS**

Had this matter gone to trial, the United States would have proven the following beyond a reasonable doubt through witnesses, testimony, and other competent and admissible evidence:

In April 2006, U.S. Immigration and Customs Enforcement (ICE) agents initiated an investigation into a criminal organization operating a group of commercial child pornography websites. The investigation has revealed that the organization utilizes various PayPal accounts to process the payments for access to the member-restricted websites.

Analysis of transactional logs obtained from PayPal<sup>1</sup> provided the names and addresses of various customers that purchased access to at least one of the identified child pornography websites. Based on this investigation, ICE learned that Robert Updegrove, of Alexandria, Virginia, used his credit card to purchase access to commercial child pornography websites in January 2007.

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<sup>1</sup> PayPal, an eBay Company, enables any individual or business with an email address to securely, easily and quickly send and receive payments online using a credit card or bank account information. It is a popular way to electronically pay for eBay auctions and is an inexpensive way for merchants to accept credit cards in their on-line storefronts instead of using a traditional payment gateway. PayPal's offices and computer servers are located in California.

For example, investigation revealed that on January 6, 2007, Robert Updegrove made a payment to a PayPal account known to have been used to subscribe to this group of commercial child pornography websites. The payment was in the amount of \$79.95 for access to a website identified as Desired Angels. Robert Updegrove completed this transaction from his residence in Alexandria, Virginia, by using his Cox Communications cable Internet access account. The transaction information was transmitted, via the Internet, to a Yahoo! e-mail account. Data transmitted to a Yahoo! e-mail account from a Cox Communications account travels through the Cox Communications servers in Atlanta, Georgia to the Yahoo! computer servers which are located in California.

The PayPal transaction logs for Robert Updegrove's transaction contained a referral URI which indicated the particular website that Robert Updegrove was viewing immediately prior to being connected to the PayPal payment page. A check of the National Center for Missing and Exploited Children's ("NCMEC") child exploitation databases confirmed that the website located at this referring URL contained known child exploitation images. The ICE investigation revealed that Robert Updegrove also paid to access a child pornography website on January 20, 2007 when he charged \$79.95 to his Visa credit card account to subscribe to the website known as Video-Nymphets. Both \$79.95 charges to subscribe to the child pornography websites appeared on Robert Updegrove's Visa credit card statements.

On June 29, 2007, ICE agents executed a federal search warrant at the residence of Robert Updegrove in Alexandria, Virginia. Contemporaneous to the execution of this federal search warrant, ICE agents conducted a non-custodial interview of Robert Updegrove at his residence. During the interview, Updegrove stated: he had been viewing child pornography on

the Internet for several years; he had purchased subscriptions to websites with his Visa credit card; and he viewed the child pornography several times a week.

The search of Robert Updegrove's residence revealed a number of personal computers with child pornography. Updegrove stated that the computers contained hundreds of images that he downloaded from the Internet. He said the images were of girls 8 to 15 years old on the beach, dancing and taking showers. Agents seized three personal computers and twenty-three other media items from the residence. Preliminary forensics on the digital media seized from the Updegrove residence revealed several hundred image files of child pornography downloaded from the Internet. The children depicted included "Celeste" who was photographed engaging in sexually explicit conduct in Paraguay when she was approximately twelve years old.

Updegrove's computers also stored bookmarks to many websites with "Lolitas" in the website titles as well as to other website with names associated with child pornography distribution. The saved website names included: Dark Video; LolitazClub.net; Free Lolitas Galleries; Little Sexy Teens; I-LOLA[totally illegal]; Sexy Teen Sluts; UkrainianNymphets; Small Princesses BBS; Video 2000 Free Tour; and, Youngest Lolitas Porno. Updegrove organized his child pornography still image files and motion picture image files into folders with titles relating to the sources of the files.

All of the visual depictions of minors engaging in sexually explicit conduct received by the defendant had been shipped or transported in interstate or foreign commerce by various means, including by computer transmission and were stored on materials that had traveled in interstate and foreign commerce.


In all instances described above, the defendant received visual depictions of minors

engaging in sexually explicit conduct knowingly and intentionally and not by accident or mistake.

The defendant and the United States agree that this Statement of Facts shall be admissible as a knowing and voluntary confession in any proceeding against the defendant regardless of whether the plea agreement is presented to or accepted by a court. Moreover, the defendant waives any rights that the defendant may have under the Federal Rule of Criminal Procedure 11(f), Federal Rule of Evidence 410, the United States Constitution, or any federal statute or rule in objecting to the admissibility of this Statement of Facts in any such proceeding.

Respectfully submitted,  
Chuck Rosenberg  
United States Attorney

By:

  
Gerald J. Smagala  
Assistant United States Attorney

**Defendant's Signature:** After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, Robert Updegrove, and the United States. I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Date: 11/7/2007 Robert Updegrove  
Defendant Robert Updegrove

**Defense Counsel Signature:** I am counsel for the defendant Robert Updegrove in this case. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: 11/7/07 Robert E. Battle  
Robert E. Battle  
Counsel for Defendant Robert Updegrove